

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:23-cv-00434

Rocky Dwayne Hill,
Plaintiff,

v.

Gregg County Sheriff's Office, et al.,
Defendants.

ORDER

Plaintiff Rocky Hill, an inmate of the Gregg County Jail proceeding pro se, filed this lawsuit complaining about alleged violations of his constitutional rights. The case was referred to United States Magistrate Judge K. Nicole Mitchell.

On September 5, 2023, the magistrate judge ordered plaintiff to file an amended complaint setting out a short and plain statement of his claims. Doc. 5. Plaintiff filed a motion for extension of time to comply with the order. Doc. 9. The court granted plaintiff's motion, extending the deadline to November 17, 2023. Doc. 10. To date, however, plaintiff has not complied with the order, nor has he responded in any way.

Accordingly, on November 30, 2023, the magistrate judge issued a report recommending dismissal of the lawsuit without prejudice for failure to prosecute or to obey an order of the court. Doc. 11. A copy of this report was sent to plaintiff at his last known address, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420-21 (5th Cir. 2019).

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d

1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation. Plaintiff's lawsuit is dismissed without prejudice for failure to prosecute or to obey an order of the court.

So ordered by the court on April 15, 2024.

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER
United States District Judge